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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,824	08/18/2003	Ernest Peter Nelson	152.001	5165

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KEELING PATENTS AND TRADEMARKS		
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HOUSTON, TX 77007		

EXAMINER	
THANH, QUANG D	

ART UNIT	PAPER NUMBER
3771	

MAIL DATE	DELIVERY MODE
10/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/643,824

Applicant(s)

NELSON ET AL.

Examiner

Quang D. Thanh

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 1-32 and 42-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-41, 64-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is responsive to the amendment filed on 8/14/07. As directed by the amendment: claims 33-34, 37-38, and 40-41 have been amended, claim 62 has been cancelled and new claims 64-72 have been added. Thus, claims 33-41 and 64-72 are presently pending in this application.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in United Kingdom on 2/19/02, 2/19/01, and 8/1/01. It is noted, however, that applicant has not filed certified copies of the foreign application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 38, 39, 41, 69, 70 and 72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Re claims 38, 39, 69 and 70, the limitations "an RMS acceleration" is unclear. What is "RMS" ? and "acceleration" of what element ? Clarification is requested.

6. Re claim 41, the phrase "wherein said pressure is applied by the pad through application of said pressure applying means such as to increase the area of the body subject to pressure in excess of 10 mmHg without (?) application of said pressure

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applying means by at least 25%, and preferably by at least 50%" is unclear as to whether or not if there is an application of pressure apply means ? and 25% of what value ? and 50% of what value?

7. Re claim 72, "the pad" lacks antecedent basis and the phrase "subject to pressure in excess of 10 mmHg by at least 25%, and preferably by at least 50%" is unclear as to 25% of what value ? and 50% of what value?

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 33-37, 40, 64-68 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizrachy et al. (3,853,121) in view of Pickup et al. ("The effect of cycloid vibration on leg blood flow and ulcer pain, July 1978) and Lievens (" The Use of Cycloidal Vibrations Therapy on the Blood and Lymphcirculation and on Wound Healing, 1979).

10. Mizrachy discloses a device having a drive unit 20 and a pad 11 (fig. 3) and a method of using the device for treatment of ulcers, lymphoedema (by increasing circulation of the blood, col. 4, lines 63-65) and prophylactically of venous thrombosis (col. 1, lines 3-8) of the human body, which method comprises the step of subjecting the body to mechanical vibrations (col. 4, line 29-32) for an effective period of time and wherein pressure is applied to the body area (via straps 13/14, fig. 3) by the device

subjecting the body to the mechanical vibration. Mizrachy teaches a method comprises the step of subjecting the body in the area of the ulcer, lymphoedema or deep vein thrombosis, to a mechanical vibrations (by means of 20, fig. 3) concurrently with the application of pressure (by means of pad 11 and straps 13 and 14 as shown in fig. 3) to the same area (a leg as shown in fig. 3) for an effective period of time. Mizrachy is silent regarding the cycloid vibrations having components in three orthogonal directions, a frequency of between 15 and 75 Hz and an amplitude of between 0.1 and 0.5 mm. However, Pickup et al. teaches that relief of pain and improvement of ulcer healing have been reported when cycloid vibration therapy (CVT) was applied to a number patients at frequency of 50-60 Hz for 30 minutes, three times a day. Furthermore, Lievens also teaches cycloidal vibration therapy for improving blood and lymph circulation, wherein CVT is provided with a vibration device having a three-dimensional cycloidal movement along three orthogonal directions X axis, Y axis and Z axis (see fig. 1 on p. 2) and an amplitude of $\pm 0.5 - 1$ mm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to operate the device in the Mizrachy's reference, so that the device would provide a cycloid vibration therapy having components in three orthogonal directions at a frequency of between 15 and 75 Hz and an amplitude of between 0.1 and 0.5 mm for 30 minutes, three times a day, as suggested and taught by Pickup et al. and Lievens, for the purpose of providing pain relief, improving ulcer healing and enhancing blood circulation.

Response to Arguments

11. Applicant's arguments filed on 8/14/07 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang D. Thanh

Quang D. Thanh,
Primary Examiner - Art Unit 3771
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